

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**HYANG CHUNG,
SUNGJOON HWANG, and
SANGYEOP HWANG,**

Plaintiffs,

v.

**BINGO TRANSPORTATION, INC.
d/b/a WAVE EXPRESS, EVEREST
DENALI INSURANCE COMPANY,
and TYLER AUSTEN YARDLEY,**

Defendants.

CIVIL ACTION FILE NO.:

**REMOVED FROM STATE COURT
OF FULTON COUNTY
CIVIL ACTION FILE NO.
23EV004634**

**DEFENDANTS' NOTICE OF REMOVAL TO
UNITED STATES DISTRICT COURT**

TO: The Honorable Judges of the United States District Court for the Northern District of Georgia, Atlanta Division:

COME NOW, the above-named Defendants, and file the following Notice of Removal to the United States District Court, showing the Court as follows:

1. This civil action was filed on or about August 2, 2023 in the State Court of Fulton County, State of Georgia. That action is designated there as Civil Action File No.: 23EV004634. The first and only Defendant to be served to date, Everest

Denali Insurance Company, was served on or about August 3, 2023. This removal is timely filed.

2. In their Complaint, Plaintiffs have alleged special damages in the amount of “no less than” \$68,078.16, along with additional unspecified general, punitive, and other damages. Additionally, each Plaintiff has previously submitted a written demand to Defendant in the amount of \$150,000.00 for Plaintiff Hyang Chung, \$100,000.00 for Plaintiff Sungjoon Hwang, and \$100,000.00 for Plaintiff Sangyeop Hwang.

3. Defendants file herewith a copy of all process, pleadings, and orders received by Defendants in Civil Action File No.: 23EV004634, pursuant to 28 U.S.C. § 1446.

4. Defendant Bingo Transportation Inc. d/b/a Wave Express is now, was at the commencement of Civil Action File No.: 23EV004634, and at all times since has been an entity organized and existing under the laws of the State of Indiana.

5. Defendant Bingo Transportation Inc. d/b/a Wave Express’s Principal Office at the time of filing of Civil Action File No23EV004634 was, and at all times since, has been located in Indiana.

6. Defendant Everest Denali Insurance Company is now, was at the commencement of Civil Action File No.: 23EV004634, and at all times since has been an entity organized and existing under the laws of the State of Delaware.

7. Defendant Everest Denali Insurance Company's Principal Office at the time of filing of Civil Action File No23EV004634 was, and at all times since, has been located in New Jersey.

8. Defendant Tyler Austen Yardley is now, was at the commencement of Civil Action File No.: 23EV004634, and at all times since has been an individual and citizen residing with the intent to remain in the State of Missouri.

9. Upon information and belief, each of the above-named Plaintiffs is an individual and citizen residing with the intent to remain in the State of Georgia. (Compl. ¶¶ 1-3).

10. The action described above is a civil action with a claim of which this Court has original jurisdiction, and it is one that may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. §§ 1332 and 1441 et seq., in that there is complete diversity among the Parties, the Parties are not residents of the same State, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

- a. In their Complaint, Plaintiffs have alleged special damages in the amount of "no less than" \$68,078.16, along with additional unspecified general, punitive, and other damages. Additionally, each Plaintiff has previously submitted a written demand to Defendant in the amount of

\$150,000.00 for Plaintiff Hyang Chung, \$100,000.00 for Plaintiff Sungjoon Hwang, and \$100,000.00 for Plaintiff Sangyeop Hwang.

- b. “Amount in controversy” simply means the amount sought by Plaintiff that can be legally awarded by the factfinder. “The jurisdictional fact in this case is not whether the damages are greater than the requisite amount, but whether a fact finder might legally conclude that they are: In other words, an amount that a plaintiff claims is not ‘in controversy’ if no fact finder could legally award it.” *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir., 2002). “[T]he plaintiffs’ likelihood of success on the merits is largely irrelevant to the court’s jurisdiction because the pertinent question is what is in controversy in the case, not how much the plaintiffs are ultimately likely to recover.” *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 751 (11th Cir., 2010). In a tort case, the amount in controversy includes “general, special, and punitive damages.” *Williams v. Best Buy Co.*, 269 F.3d 1316, 1320 (11th Cir., 2001).

11. Defendants file herewith a copy of all process, pleadings, and orders received by Defendants in the State Court of Fulton County, State of Georgia, marked as Exhibit “A”.

12. Defendants attach hereto a copy of Defendants' Notice of Removal, which has been sent for filing in the State Court of Fulton County, State of Georgia, marked as Exhibit "B."

WHEREFORE, Defendants pray that the above action now pending against it in the State Court of Fulton County, State of Georgia, be removed to this Court.

This 1st day of September, 2023.

QUINTAIROS, PRIETO, WOOD & BOYER, P.A.

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**DEFENDANTS DEMAND
TRIAL BY JURY OF 12**

/s/ Mark D. Christopher
SCOTT H. MOULTON
Georgia State Bar No. 974237
MARK D. CHRISTOPHER
Georgia State Bar No. 821387
KATHERINE E. DIEM
Georgia State Bar No. 578782
Counsel for Defendants

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CERTIFICATE OF COMPLIANCE

The foregoing **DEFENDANTS' NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT** and request for trial date is double-spaced in 14-point Times New Roman font and complies with the type-volume limitation set forth in Local Rule 7.1.

This 1st day of September, 2023.

[Signature page follows]

QUINTAIROS, PRIETO, WOOD & BOYER, P.A.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the within and foregoing **DEFENDANTS' NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT** upon all parties to this matter by depositing same in the U.S.

Mail and/or via e-file and serve as required by law:

Joseph A. Zdrilich
Zdrilich Injury Law, LLC
3575 Koger Boulevard, Suite 125
Duluth, Georgia 30096
joe@zinjurylaw.com
Counsel for Plaintiffs

This 1st day of September, 2023.

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